

# Variance

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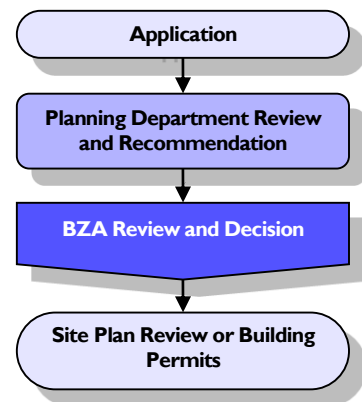
## General Description

A variance is a process by which an appellant can seek relief from the requirements of the *Zoning Ordinance* through a special review by the Board of Zoning Appeals (BZA). Such relief may only be considered when full compliance with the *Zoning Ordinance* will create an “unnecessary hardship” for the applicant as defined in the ordinance and by state law. Generally speaking, variances are typically considered when lots have unique layouts, sizes, topographic, or other extraordinary conditions that cannot accommodate development as normally required by the ordinance.

## The Review Process

1. The appellant may submit a formal application to request a Variance in accordance with Section 2.3 and Subsection 2.4.5 of the *Zoning Ordinance*.
2. The Department of Planning and Sustainability, along with other applicable departments, will review the application and make a recommendation to the BZA.
3. Following this recommendation, the BZA will hold a public hearing where they will allow the appellant the opportunity to present their case to the board and then will allow both proponents and opponents to the Variance to provide comment on the application.
4. After the closing of the public hearing, the BZA will discuss the application, in public, and will make a decision in accordance with the ordinance, legal requirements, and the BZA By-laws.

### Variance Review Process



## Things to Know About Variances

- Detailed information on the variance procedure and review criteria is established in Subsection 2.4.5 of the *Zoning Ordinance*.
- In approving a variance, the BZA can impose any conditions on the proposed use and property to ensure that the variance meets the intent and purpose of the *Zoning Ordinance*.
- Variances cannot be considered or granted to allow uses that are otherwise prohibited in the applicable zoning district. This type of action would be the equivalent of a rezoning (Zoning Map Amendment), which requires legislative action by the BOMA.
- Variances are not intended to be used to remove inconveniences to the applicant or financial burdens that may be caused by compliance with the *Zoning Ordinance*.
- Variances continue with the property and are not discontinued if the property is sold.

- Each variance request is a separate request. As such, each request shall be charged a separate fee. The BZA may consider each request separately or together, depending on direction from the Chair of the Board.
- The granting of a variance required as a prerequisite to some other form of approval (such as a Site Plan) does not guarantee that any additional approval required will be granted.
- In cases where a variance is needed as a prerequisite for a Building Permit, a Building Permit must be obtained within one year of the issuance of the variance, or the variance shall be rendered invalid.
- Published notices shall be provided by the City in accordance with state law.
- The appellant shall be required to send written notification by first-class mail to property owners within 500 feet of the subject property and submit the Public Notice Affidavit with the application for the variance. Failure to comply with this shall result in automatic removal of the application.

## Submittal Requirements

The table below depicts the submittal requirements for variances:

VARIANCE SUBMITTAL REQUIREMENTS		
1	Application form and fee submitted to the Department of Planning and Sustainability	
2	Site location, including tax map, group, parcel number, and street address	
3	All base and overlay zoning classifications (including character area overlay)	
4	Length of boundaries of the lot, and lot size in square feet	
5	Locations, square footages, and dimensions of all existing and proposed structures	
6	All minimum and maximum setbacks, including build-to lines	
7	Easement types, locations, and dimensions	
8	Description of the variance(s) being requested	
9	Statement indicating the grounds for the variance request and how the request complies with the approval criteria in Subsection 2.4.5	
10	Any applicable drawings, sketches, or plans necessary to justify the variance request	
11	The appellant shall provide the Public Notification Affidavit at the time of submittal of the application	
12	Any additional information determined to be necessary by the Department of Planning and Sustainability	

**Submittal Requirements & Checklists are available from the City of Franklin.**

*Contact the Department of Planning and Sustainability for the latest version of the Checklist for the Board of Zoning Appeals.*

## Appeal of Administrative Decisions

### General Description

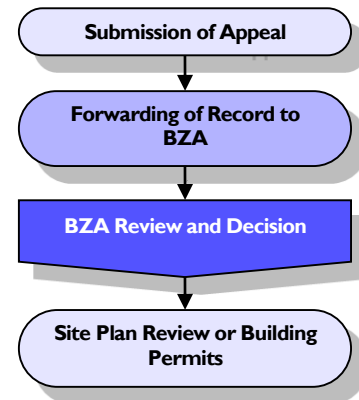
The appeal of administrative decisions (appeals) process set forth in Section 2.4.6 of the *Zoning Ordinance* is a review procedure that allows an appellant to appeal an administrative (staff) decision of the Department of Planning and Sustainability, Department of Building and Neighborhood Services, or other city official if the applicant feels the decision was incorrect, was a provision set forth within

the requirements of the Zoning Ordinance, or that they have been otherwise aggrieved by the decision. The Board of Zoning Appeals may hear the appeal of the administrative decision, if the appellant makes application of the request within thirty (30) days of the decision.

## The Review Process

1. The appellant may submit a formal Appeal in accordance with Section 2.3 and Subsection 2.4.6 of the Zoning Ordinance.
2. Once the appellant has submitted the formal appeal, all records pertaining to the original decision will be forwarded to the BZA.
3. The BZA will review the appeal in accordance with the Zoning Ordinance, state law, and the BZA By-laws.

### Appeals Review Process



## Things to Know About Appeals

- Detailed information on the appeals procedure and review criteria is established in Subsection 2.4.6 of the *Zoning Ordinance*.
- Appeals shall be filed within 30 days of the date of the original decision.
- The BZA may apply conditions to its decision if it overturns the original decision of staff to ensure any such decision is in the spirit of the *Zoning Ordinance*.
- Published notices shall be provided by the City, in accordance with state law.
- Each appeals request is a separate request. As such, each request shall be charged a separate fee. The BZA may consider each request separately or together, depending on direction from the Chair of the Board.
- The appellant shall be required to send written notification by first-class mail to property owners within 500 feet of the subject property and submit the Public Notice Affidavit with the application for the appeal of the Administrative Decision. Failure to comply with this shall result in automatic removal of the application.

## Submittal Requirements

The table below depicts the submittal requirements for Appeals:

APPEAL SUBMITTAL REQUIREMENTS		
1	Application form and fee submitted to the Department of Planning and Sustainability	
2	Reference to city project identification number that is the source of the appeal	
3	Description of the decision being appealed (including copy of Site Plan or other application materials as appropriate)	
4	Statement describing reasons for appeal and justification	
5	The appellant shall provide the Public Notification Affidavit at the time of submittal of the application	
6	Any additional information determined to be necessary by the Department of Planning and Sustainability	

**Submittal Requirements & Checklists are available from the City of Franklin.**

*Contact the Department of Planning and Sustainability for the latest version of the Checklist for the Board of Zoning Appeals.*

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